



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

FEB 14 1996

HAND DELIVERED

Stephan C. Volker
Sierra Club Legal Defense Fund
180 Montgomery Street, Suite 1400
San Francisco, California 94101

Re: FOIA Request for Documents Related to EPA Approval of
State Water Quality Standards

Dear Mr. ^{Steve}Volker:

Accompanying this letter is a large box of documents and several lists of these documents. These documents include:

- (1) the EPA response to comments document on EPA's proposed rule;
- (2) the final Regulatory Impact Analysis;
- (3) two large sets of documents covering primarily calendar year 1994 material;
- (4) one large and one small set of documents covering primarily calendar year 1995.

In addition, there is a list of items that have been withheld, along with the exemption being relied upon for withholding that document.

My records indicate that we already sent you, on June 7, 1994, a box containing the approximately 200 comment letters received on EPA's proposed rule.

There are still some additional records necessary to completely respond to your FOIA request. These include primarily a series of notes from various Club Fed and CALFED meetings and the voluminous amount of material being produced this year from the CALFED Bay Delta Program planning effort. In accordance with your first letter, I suggest that we just arrange a time when you or your staff can come to our offices and review these documents.

When you start reviewing these documents, if you have any questions about how they are organized, please feel free to call me at (415) 744-1375. In addition, if you intend to challenge the claim for exemptions of the withheld documents, let me know as soon

as possible.

As you know, since your request EPA has suffered from both a 3 week furlough and a week-long HQs snow week. We have also had to release virtually all of our support staff because of the continuing budget morass, which has slowed our response times on almost everything. I appreciate your continued patience.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Tom Hagler", written in a cursive style.

Thomas M. Hagler
Office of Regional
Counsel

Enclosures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

FEB 14 1996

HAND DELIVERED

Stephan C. Volker
Sierra Club Legal Defense Fund
180 Montgomery Street, Suite 1400
San Francisco, California 94101

Re: FOIA Request for Documents Related to EPA Approval of
State Water Quality Standards

Dear Mr. ^{Steve}Volker:

Accompanying this letter is a large box of documents and several lists of these documents. These documents include:

- (1) the EPA response to comments document on EPA's proposed rule;
- (2) the final Regulatory Impact Analysis;
- (3) two large sets of documents covering primarily calendar year 1994 material;
- (4) one large and one small set of documents covering primarily calendar year 1995.

In addition, there is a list of items that have been withheld, along with the exemption being relied upon for withholding that document.

My records indicate that we already sent you, on June 7, 1994, a box containing the approximately 200 comment letters received on EPA's proposed rule.

There are still some additional records necessary to completely respond to your FOIA request. These include primarily a series of notes from various Club Fed and CALFED meetings and the voluminous amount of material being produced this year from the CALFED Bay Delta Program planning effort. In accordance with your first letter, I suggest that we just arrange a time when you or your staff can come to our offices and review these documents.

When you start reviewing these documents, if you have any questions about how they are organized, please feel free to call me at (415) 744-1375. In addition, if you intend to challenge the claim for exemptions of the withheld documents, let me know as soon

as possible.

As you know, since your request EPA has suffered from both a 3 week furlough and a week-long HQs snow week. We have also had to release virtually all of our support staff because of the continuing budget morass, which has slowed our response times on almost everything. I appreciate your continued patience.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Tom Hagler". The signature is written in a cursive, slightly slanted style.

Thomas M. Hagler
Office of Regional
Counsel

Enclosures



Sunrise, Mt. McKinley

Ansel Adams

SIERRA CLUB LEGAL DEFENSE FUND, INC.

The Law Firm for the Environmental Movement

180 Montgomery St., Suite 1400, San Francisco, CA 94104-4209

(415) 627-6700 FAX (415) 627-6740

10.132.01
February 4, 1996

Patrick Wright
San Francisco Bay-Delta
Environmental Coordinator
U.S. Environmental Protection
Agency
Region 9
75 Hawthorne St.
San Francisco, CA 94105

Re: Freedom of Information Act request for documents
concerning EPA approval of State Water Resources
Control Board Water Quality Control Plan for the San
Francisco Bay-Sacramento San Joaquin Delta Estuary

Dear Patrick:

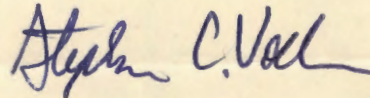
On November 15, 1995 we submitted a request pursuant to the Freedom of Information Act, 5 U.S.C. section 552, et seq., for one copy each of three categories of documents concerning EPA's review and approval of the State Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary. A copy of our November 15, 1995 FOIA request is enclosed for your review. In early December attorney Tom Hagler of your office kindly telephoned in response to this request, enquiring whether EPA could have additional time to respond. I granted Mr. Hagler's request, but in return asked that in the interim EPA transmit to us the documentation underlying its September 26, 1995 approval of the California water quality standards for the Bay-Delta and any additional documents comprising the record on which EPA would base its contemplated withdrawal of the final Bay-Delta water quality standards promulgated by EPA on December 14, 1994 (60 Fed.Reg. 4663). As of this date, we have not received these materials or any other documents responsive to our November 15, 1995 FOIA request.

Please transmit the subset of documents concerning EPA's September 26 approval and proposed withdrawal of Bay-Delta Standards that Tom Hagler agreed to produce during the interim period while EPA is assembling the balance of its records in response to our FOIA request. I would also appreciate receiving written confirmation that EPA will soon produce for our inspection the other documents requested in our November 15 request.

Patrick Wright
February 4, 1996
Page 2

Thank you for your attention to this important matter. Your prompt response is essential to assure that we have sufficient time to review these materials prior to preparing our comments on EPA's proposed withdrawal of its Bay-Delta water quality standards. As you know, the deadline for submission of comments on that proposal is March 19, 1996.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Stephan C. Volker". The signature is fluid and cursive, with the first name "Stephan" being more prominent.

Stephan C. Volker

cc: Clients

baydelta\wright.lt2



Sunrise, Mt. McKinley

Ansel Adams

SIERRA CLUB LEGAL DEFENSE FUND, INC.

The Law Firm for the Environmental Movement

180 Montgomery St., Suite 1400, San Francisco, CA 94104-4209

(415) 627-6700 FAX (415) 627-6740

10.132.01

November 15, 1995

Patrick Wright
San Francisco Bay-Delta
Environmental Coordinator
U.S. Environmental Protection
Agency
Region 9
75 Hawthorne St.
San Francisco, CA 94105

Re: Freedom of Information Act request for documents
concerning EPA approval of State Water Resources
Control Board Water Quality Control Plan for the San
Francisco Bay-Sacramento San Joaquin Delta Estuary

Dear Patrick:

This is a request pursuant to the Freedom of Information
Act, 5 U.S.C. section 552, et seq. for one copy of the following
documents:

1. All documents prepared or received by the United States
Environmental Protection Agency since January 1, 1994 regarding
review and approval of the Water Quality Control Plans for the
San Francisco Bay/Sacramento-San Joaquin Delta Estuary adopted by
the State Water Resources Control Board in May, 1991 and in May,
1995.

2. All documents prepared or received by the United States
Environmental Protection Agency since January 1, 1994 with regard
to the "CalFed" process for protection of San Francisco
Bay/Sacramento-San Joaquin Delta Estuary water quality.

3. All documents prepared or received by the United States
Environmental Protection Agency since January 1, 1994 regarding
adoption, suspension or withdrawal by EPA of its water quality
standards for the San Francisco Bay/Sacramento-San Joaquin Delta
Estuary on December 14, 1994.

Please note that we have many of these documents on file
already. Therefore we would appreciate receiving initially a
control sheet listing the relevant documents in EPA's possession
so that we can assure we have a complete set. (Please be sure to
include in this list all documents respecting EPA's suspension
and/or withdrawal of its Bay-Delta water quality standards

Patrick Wright
November 15, 1995
Page 2

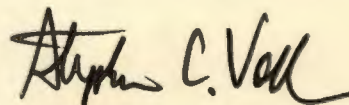
adopted on December 14, 1994. We do not have any of these documents at present.)

After we have received your document lists, we will advise you which documents we need. Alternatively, if you prefer, we would be willing to review your files directly to identify documents we do not have. Obviously this would be more convenient for you if you do not already have control sheets listing these documents.

Please send these document lists to me at our San Francisco office. This request is made on behalf of the Sierra Club Legal Defense Fund, a non-profit charitable organization, for the purpose of providing public information about governmental activities to concerned members of the public and assisting in the implementation of conservation laws, including the National Environmental Policy Act, the National Forest Management Act, the Clean Water Act, the Endangered Species Act, and the Wild and Scenic Rivers Act. The fee waiver provision of the Freedom of Information Act was amended in 1987 "to remove the roadblocks and technicalities which have been used by various Federal agencies to deny waivers," and therefore "is to be liberally construed in favor of waivers for noncommercial requesters." McClellan Ecological Seepage Situation v. Carlucci, 835 F.2d 1282, 1284 (9th Cir. 1987), quoting 132 Cong. Rec. S16496 (October 15, 1986) and S14298 (September 30, 1986), respectively. Congress intended that non-profit public interest groups receive fee waivers when seeking documents under the Freedom of Information Act. Better Government Ass'n v. Department of State, 780 F.2d 86, 94 (D.C. Cir. 1986). Please note further that the Council on Environmental Quality's NEPA regulations direct at 40 C.F.R. section 1506.6(f) that federal agencies shall "make environmental impact statements, the comments received, and any underlying documents available to the public. . . without charge to the extent practicable. . . ." (Emphasis added.) Therefore, waiver of any applicable duplicating fees is hereby requested under 5 U.S.C. section 552(a)(4)(A).

Thank you for your courtesy and cooperation in responding to this request.

Very truly yours,



Stephan C. Volker



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

MEMORANDUM

JAN 26 1996

SUBJECT: FOIA Request on Bay/Delta Documents

FROM: Tom Hagler, R9 ORC *tmh*

TO: Phil Metzger, OW
Tudor Davies, OW
Lee Schroer, OGC
Mary Ellen Levine, OGC

I have received a broad FOIA request from the Sierra Club Legal Defense Fund covering virtually all Bay/Delta documents since the beginning of 1994. A copy is enclosed.

Luckily, I believe that I have most of these documents already assembled when I (with Mary Ellen's help) pulled together the administrative record for the final rule. In addition, I have already made copies of the comments letters and comment response document. For that reason, I'm asking that you focus primarily on calendar year 1995, and especially on any material related to EPA's possible withdrawal or stay of the federal rule.

So far, counsel for SCLDF has been very understanding on our delay, but I'm trying to be responsive within the parameters of the budget insanity.

As soon as possible, please send me any material you have reason to believe is not already in Region IX. I'm developing some lists that I will send you to let you know what I already have.

Call me with any concerns at (415) 744-1375. If I'm not on furlough, I'll answer....

TMH/11/27/95

SCLDF BAY/DELTA FOIA REQUEST

GENERAL OUTLINE

Probable Groups of Documents:

- (1) Comment letters and comment response document
- (2) Club Fed/CALFED meeting agendas and papers
- (3) HQ Briefing material and updates
- (4) Action Memos on final rule promulgation
- (5) Negotiation memos on the Accord
- (6) Briefing materials on the Accord
- (7) Testimony/Comments on the State Board process and standards
- (8) Technical analysis of the State Board standards, of the Accord
- (9) Operations Group materials??/Category III materials?/related CALFED BDP materials?
- (10) ESA Consultations on Approval of SWRCB standards
- (11) Approval letters and related briefing memoranda on approval of State Board standards
- (12) Draft FR notice on Stay and related Action memo
- (13) Action options paper on the Stay

SCLDF FOIA REQUEST

GENERAL OUTLINE

Groups of Documents:

- (1) **Comment letters and comment response document**
- (2) Club Fed/CALFED meeting agendas and papers
- (3) HQ Briefing material and updates
- (4) Action Memos on final rule promulgation
- (5) Negotiation memos on the Accord
- (6) Briefing materials on the Accord
- (7) Testimony/Comments on the State Board process and standards
- (8) Technical analysis of the State Board standards, of the Accord
- (9) **Operations Group materials??/Category III materials?/related CALFED BDP materials?**
- (10) ESA Consultations on Approval of SWRCB standards
- (11) Approval letters and related briefing memoranda
- (12) Draft FR notice on Stay and related Action memo
- (13) Action options paper on the Stay